

REMARKS

Together with the filing of this Application No. 09/937,740 as a United States National Phase Application of PCT/AU00/00281, Applicants filed a first Preliminary Amendment based on the 101 claims of the PCT Application as published, indicating that the status of the claims was "Claims 1-101 are presently pending from the above-identified International Phase." However, the Examiner's entry and treatment of that Preliminary Amendment was made with respect to the 120 claims of the PCT Application, as amended in the Preliminary Examination Report. Accordingly, considerable confusion has resulted in the examination of this Application.

The first Preliminary Amendment indicated as its objective in its remarks to amend the claims to leave only the 7 independent claims prior to fee calculation. However, as entered by the Examiner with respect to the 120 claims as they were amended in the Preliminary Examination Report, a number of the claims that were cancelled were the independent claims sought to be preserved by the first Preliminary Amendment, and claim numbers, which were intended to be included as independent claims turned out to be dependent claims, the antecedent claim of which had been cancelled by the Preliminary Amendment.

- The present Amendments To Claims recites by number all of the 120 claims as amended in the Preliminary Examination Report in the International Application. Claims 121 through 170 are indicated in the attached Amendments To Claims as either being "reinstated", together with an indication of their former inadvertently cancelled claim number, or "new". In some instances, there have been minor amendments made to the former, inadvertently cancelled, claims to correct dependency, and/or to remove

multiple dependency, and/or to correct other issues that might arise under 35 U.S.C. §112, second paragraph. In such instances, in a good faith effort to comply with the required use of only a single Status Identifier, the former, inadvertently cancelled, claims have been identified as "new".

New Claim 161, formerly cancelled Claim No. 48, also differs from Claim 48 in that Claim 48 originally recited that "the main axis lies between the pistons and the big end axis", but now recites that -- the main axis lies between the piston and the piston guide means --. This revision is fully supported in the embodiment described and illustrated in Figs. 218 and 219.

Some of the claims examined, namely 16, 19, 22-24, 35, 87, 102-111, 113 and 115-117 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention, because they depended from a cancelled claim. Each of Claims 16, 19, 22-24 and 35 are currently amended to properly depend from a reinstated claim or new claim. Claim 87 has been cancelled. Claims 102 and 105-107 are currently amended to depend from independent Claim 170, which is reinstated formerly cancelled Claim 91. Claim 109 is currently amended to remove its multiple dependency such that it depends only from Claim 1, as has been done with Claim 117. Claim 108 depends from Claim 107, the dependency of which is currently amended as indicated above. Claims 103 and 104 are currently amended to depend from independent Claim 169, which is reinstated formerly cancelled independent Claim 88. Claim 111 is currently amended to depend from reinstated Claim 160, formerly cancelled Claim 47, and Claim 113, which depends from cancelled Claim 100, is itself

cancelled, as is Claim 112, which depended from formerly cancelled Claim 95. Each of Claims 110, 115 and 116 are currently amended to eliminate the multiple dependency on formerly cancelled claims.

Claim 105 is also currently amended to correct ““F”” to –F— to overcome the objection to that claim.

Each of Claims 23, 24, 109 and 110 was rejected as indefinite under 35 USC §112, second paragraph, because of the recitation of “the or each cylinder”. Each of those Claims is currently amended to delete “or each”, and it is respectfully submitted that as so amended, each of those Claims particularly points out and distinctly claims the subject matter that the Applicants claim as their invention, and that the rejection under 35 USC §112 is respectfully requested to be withdrawn.

Claims 118-120 rejected under 35 U.S.C. §112, second paragraph, are cancelled.

The Examiner’s indication that Claims 1 and 14 are allowed and that Claims 16, 23, 24, 109, 110, 115-117 would be allowable if rewritten to overcome the objections under 35 U.S.C. §112, second paragraph, is respectfully acknowledged. Moreover, it is respectfully submitted, that as amended, each of Claims 16, 23, 24, 109, 110, 115-117 overcome the rejections under 35 U.S.C. §112 as they now properly depend from a claim that is in the Application, and itself depends directly or indirectly from Claim 1, and accordingly are in condition for allowance.

A new Abstract is included in the Amendment to the Specification on a separate sheet in accordance with 37 C.R.F. 1.52(b)(4).



Based on the foregoing, Applicants respectfully submit that the Application, including all of the claims presently in the Application as a result of the Amendments to Claims 1, 16, 19, 22-24, 35, 102-111, 114-117, and 121-170, of which claims 1 and 165-170 are independent, patentably distinguishes over the cited prior art. Accordingly, Applicant submits that the Application, now as amended, is in a *prima facia* condition for allowance, and such early favorable action is respectfully requested.

Should anything further be required, a telephone call to the undersigned, at (312) 456-6585, is respectfully invited.

Respectfully submitted,

Dated: February 17, 2004

John S. Pacocha
One of Attorneys for Applicant

CERTIFICATE OF MAILING

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John S. Pacocha

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